IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOSEPH ALBERT TAYLOR,	)	
	)	
Plaintiff,	)	4:05cv3092
	)	
vs.	)	MEMORANDUM AND ORDER
	)	(appeal)
JOHN LEDUC, et al.,	)	
	)	
Defendants.	)	

The plaintiff, Joseph Albert Taylor, a prisoner, has filed a Notice of Appeal (filing nos. 29 and 31) from this court's Memorandum and Order (filing no. 27) and Judgment (filing no. 28) dismissing the plaintiff's complaint and this action. In addition, the plaintiff has filed Applications for Leave to Proceed In Forma Pauperis ("IFP") on appeal (filing nos. 30 and 32).

Because the plaintiff has previously been granted leave to proceed IFP in the district court, and because this appeal is taken in good faith, the plaintiff may continue to proceed IFP on appeal pursuant to Fed. R. App. P. 24(a)(3).[1] However, to calculate the plaintiff's initial partial appellate filing fee and issue a collection Order, the court requires certified trust account information from the plaintiff's institution for the last six (6) months. Until such documents are received, the court will grant the plaintiff provisional leave to proceed IFP on appeal, and the Clerk of Court shall request the necessary trust account information from the appropriate official for the plaintiff's institution.

The plaintiff is hereby notified that leave to proceed IFP on appeal does not exempt him from liability for payment of the full $255 appellate filing fee in installments regardless of the outcome of the appeal. In addition, by filing a notice of appeal, the plaintiff consents to the deduction by prison officials of the filing fee from the plaintiff's inmate prison account.

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[1]Fed. R. App. P. 24(a)(3) states:

(a) Leave to Proceed in Forma Pauperis....
(3) Prior Approval.   A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court-- before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

Absence of the required prison account information will result in the assessment of an initial partial appellate filing fee of $35 or such other amount as is reasonable, based on whatever information the court has about the plaintiff's finances.

After payment of the initial partial appellate filing fee, the remaining balance of the appellate filing fee shall be collected by the plaintiff's institution in accordance with 28 U.S.C. § 1915(b)(2), which states:

> (b)(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

THEREFORE, IT IS ORDERED:

1.   That filing nos. 30 and 32, the plaintiff's applications for leave to proceed in forma pauperis on appeal, are provisionally granted, subject to calculation of the initial partial appellate filing fee after receipt of the plaintiff's certified trust account information;

2.   That an appellate filing fee of $255 is assessed for this appeal, to be paid in accordance with 28 U.S.C. § 1915(b);

3.   That the Clerk of Court shall request a certified copy of the plaintiff's trust account information from the financial officer for the plaintiff's institution; and

4.   That upon receipt of the trust account information, the Clerk shall bring this matter to the attention of the court so that the court may issue a collection Order specifying the amount of the initial partial appellate filing fee.

November 29, 2005.   BY THE COURT:

                                      /s *Richard G. Kopf*
                                      United States District Judge